

Robert Pyke, Consulting Engineer

March 21, 2011

Mr. Phil Isenberg
Chair, Delta Stewardship Council
980 Ninth St. Suite 1500
Sacramento, California 95814

Re: Comments on the Second Staff Draft of the Delta Plan

Dear Chair Isenberg and Council Members,

I regret that it is not possible to make constructive comments on the content of this second staff draft. In the space of a month the staff has gone from a plan with findings but no policies, to a plan with tentative policies but no basis for those policies. The legislative requirement that the plan include “quantified or otherwise measurable targets associated with achieving the objectives of the Delta Plan” is still not addressed. Such targets are not something that can be added at a later date. If you do not have a clear idea of the current situation and the future goals, how can you construct a plan to move from one to the other? However, I would like to make the following four points in the hope that they will be of value to you as you try to right this foundering ship and bring it safely into harbor.

1. Handling of public comments.

I have read most of the public comments submitted subsequent to the issuance of the First Staff Draft. As with the scoping comments on the EIR, there are in my judgment both many excellent comments and common threads amongst the comments from disparate stakeholders. However, not only do I not see these reflected in the Second Staff Draft, but I have to say that your “workshop” on March 10 and 11, while also producing many excellent comments, was not structured with a view to bringing people together. You continue to provide a platform for posturing and polarization that is little different from what happens on cable television news programs. What is needed is facilitated communication.

2. A policy on dredging (with wider implications).

In my remarks to you on February 24, I noted that mention of the need for a policy on dredging had been omitted from my written comments on the First Staff Draft.

Dredging in the Delta continues to be necessary to maintain, and perhaps to deepen, the deep-water ship channels, and for other reasons associated with the Council's mandate to protect and enhance the values of the Delta as an evolving place. Although the historic use of dredging to maintain and improve levees is being supplanted by use of compacted dry fill, extensive dredging may be required to restore the sunken islands and to make other small but important changes in the geometry of the Delta islands and channels. But dredging in the Delta currently requires the pulling of nineteen separate permits. Thus, while I have previously opined that the new governance structure for the Delta is already in place and that a chapter on governance is not needed in the Delta Plan, somewhere, perhaps not in the Plan itself but in a separate document, the Council does need to call for State and Federal legislation to broaden the powers of the Council so that you become the one-stop permitting agency for things like dredging. Imagine – simplify the process and give the authority to someone who is already charged with balancing competing interest in the Delta. I know many people will say that this cannot happen because it makes too much sense, but nothing ventured, nothing gained? The more difficult question is to what other issues could these broadened powers be extended? Ideally, some of the powers of the State Water Resources Control Board and the Department of Fish and Game might be transferred to the Council for actions that take place strictly in the Delta, but it is not easy to uncouple actions that are strictly within the Delta from things that happen in the watershed, so that may not be entirely practical. But, streamlining of regulations and the enforcement of regulations that directly impact conveyance of water through and eco-system restoration in the Delta and placing these issues more squarely under your control, would constitute a giant step towards achieving the co-equal goals.

3. Yet another comment on adaptive management.

In my comments on the first staff draft I wrote *“there is no need for a Chapter 4, especially if it just talks about science and logic-chains – that could be an appendix. Comments on adaptive management should be included in the actual elements of the plan, Chapters 5-9, as appropriate and should be tied to the content of those elements”*.

I don't know whether it was this comment that prompted the following from the Independent Science Board in their draft comments *“We were pleased to receive at our meeting, the draft of Chapter 4, which deals with adaptive management, and will comment on it at the next ISB meeting. However, we understand that there is a*

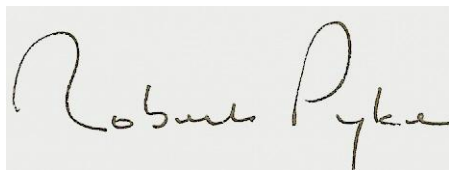
proposal to eliminate the chapter dedicated to adaptive management and disperse discussion of adaptive management throughout the Plan. We feel that would be a bad approach. A discussion of how adaptive management should be employed for each major aspect of the plan (water supply, ecosystem, water quality, risk, Delta as place) should be included in each chapter, but adaptive management is so important to the overall success in achieving the coequal goals that the framework should also be fully described in a dedicated chapter”.

I don't think that any of this is a big deal. The draft of Chapter 4, when it emerged, was exceptionally well-written and it does no harm, regardless of whether it is a stand-alone chapter or merged into Chapter 2 as it is in the new draft. But I stand by my previous comment - it could be an appendix. It is fine in theory, but as Emery Roe of UC Berkeley said at this week's Delta Science Program brown-bag, the promise of adaptive management is separated from the reality of adaptive management by multiple social science issues. What matters much more is whether there is a meaningful plan to adapt in the first place. At this time there is not. Adaptive management is not a substitute or a panacea for a plan that lacks quantified or otherwise measureable targets.

4. A comment on the role of the Independent Science Board

Although I agree with many of the draft comments of the Independent Science Board on the “findings” in the first staff draft and commended them for speaking their minds, I am not at all sure that this is proper use of the ISB. As I have noted previously, the Delta Plan involves more than just science. Nor is it the role of the ISB to do the Council's dirty work for you. Their role is to advise you on the Delta Science Program and the scientific content of the Delta Plan and the BDCP. It mostly certainly is not to counsel the staff and consultants as a professor would counsel a graduate student. But you have placed them in an awkward position and you should now rescue them from it.

Respectfully,

A handwritten signature in black ink that reads "Robert Pyke". The signature is written in a cursive, flowing style.

Robert Pyke, Ph.D., G.E.